ORIGINAL

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SOUTHERN DISTRICT OF CALIFORNIA
BY KNH DEPUTY

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

ROGELIO LAROSA, Individually, and as Successor in Interest of the Estate of MILAGROS LAROSA, Deceased, and ERIC LAROSA, Individually, Plaintiffs, v. SmithKline Beecham Corporation, d/b/a GlaxoSmithKline, a Pennsylvania corporation; GlaxoSmithKline plc, an English public limited company; Glaxo Wellcome UK Ltd., Uxbridge, Middlesex, UK; and GlaxoSmithKline UK Limited Brentford, Middlesex, UK, Defendants.	**CASE NO. '07 CV 2356 WQH JMA** **COMPLAINT FOR DAMAGES FOR WRONGFUL DEATH; SURVIVAL ACTION** **DEMAND FOR JURY TRIAL**

Plaintiffs allege on information and belief:

JURISDICTION AND VENUE

1. Jurisdiction is based on diversity of citizenship under 28 U.S.C. § 1332. The matter in controversy exceeds the sum of seventy five thousand ($75,000.00) dollars, exclusive of interest and costs.

2. This Court has supplemental jurisdiction under 28 U.S.C. § 1367 with respect to claims that form part of the same case or controversy.

3. Venue is based on 28 U.S.C. § 1391(a)(2) because a substantial part of the events or omissions on which the claims are based occurred in this district.

PARTIES

4. Plaintiff Rogelio Larosa is a competent adult, the husband of Milagros Larosa, deceased, and a resident San Diego County in the State of California. The plaintiffs' decedent, Milagros Larosa, was a resident of San Diego County in the State of California at the time of her death. Plaintiff Rogelio Larosa brings this action under C.C.P. §377.60 for wrongful death, and under C.C.P. §377.30, *et seq.*, as Successor in Interest to the Estate of Milagros Larosa. Plaintiff's declaration under C.C.P. § 377.32 is attached.

5. Plaintiff Eric Larosa is a competent adult, the son of Milagros Larosa, deceased, and a resident of San Diego County in the State of California. Plaintiff Eric Larosa brings this action under C.C.P. §377.60 for wrongful death.

6. SmithKline Beecham Corporation d/b/a GlaxoSmithKline, a Pennsylvania corporation was, and still is, a corporation duly existing under and by virtue of the laws of the State of Pennsylvania with its principal place of business in Philadelphia, Pennsylvania.

7. At all times relevant, defendant SmithKline Beecham Corporation d/b/a GlaxoSmithKline was, and still is, a pharmaceutical company involved in researching, manufacturing, selling, merchandising, advertising, promoting, labeling, analyzing, testing, distributing and marketing of pharmaceuticals for distribution, sale, and use by the general public, including its antidiabetic agent rosiglitazone maleate under the trade names of Avandia Tablets, Avandamet Tablets, and Avandaryl Tablets.

8. GlaxoSmithKline plc, an English public limited company was, and still is, a public limited company existing under and by virtue of the laws of the country of England with its principal place of business in London, England.

9. At all times relevant, defendant GlaxoSmithKline plc was, and still is, a pharmaceutical company involved in researching, manufacturing, selling, merchandising, advertising, promoting, labeling, analyzing, testing, distributing and marketing of pharmaceuticals for distribution,

sale, and use by the general public, including its antidiabetic agent rosiglitazone maleate under the trade names of Avandia Tablets, Avandamet Tablets, and Avandaryl Tablets.

10. Glaxo Wellcome UK Ltd., Uxbridge, Middlesex, UK was, and still is, a public limited company existing under and by virtue of the laws of the country of England with its principal place of business in Uxbridge, Middlesex, England.

11. At all times relevant, defendant Glaxo Wellcome UK Ltd. was ,and still is, a pharmaceutical company involved in researching, manufacturing, selling, merchandising, advertising, promoting, labeling, analyzing, testing, distributing and marketing of pharmaceuticals for distribution, sale, and use by the general public, including its antidiabetic agent rosiglitazone maleate under the trade names of Avandia Tablets, Avandamet Tablets, and Avandaryl Tablets.

12. GlaxoSmithKline UK Ltd., Brentford, Middlesex, UK was, and still is, a public limited company existing under and by virtue of the laws of the country of England with its principal place of business in Brentford, Middlesex, England.

13. At all times relevant, defendant GlaxoSmithKline UK Ltd. was, and still is, a pharmaceutical company involved in researching, manufacturing, selling, merchandising, advertising, promoting, labeling, analyzing, testing, distributing and marketing of pharmaceuticals for distribution, sale, and use by the general public, including its antidiabetic agent rosiglitazone maleate under the trade names of Avandia Tablets, Avandamet Tablets, and Avandaryl Tablets.

14. SmithKline Beecham Corporation d/b/a GlaxoSmithKline, a Pennsylvania corporation, GlaxoSmithKline plc, an English public limited company, Glaxo Wellcome UK Ltd., Uxbridge, Middlesex, UK, and GlaxoSmithKline UK Ltd., Brentford, Middlesex, UK hereinafter shall be collectively referred to as "GSK Defendants".

GENERAL ALLEGATIONS

15. Rosiglitazone maleate ("rosiglitazone") is researched, manufactured, sold, merchandised, advertised, promoted, labeled, analyzed, tested, distributed and marketed by the GSK Defendants under the trade names of Avandia Tablets, Avandamet Tablets, and Avandaryl Tablets (hereinafter collectively referred to as "Avandia"), and is a member of the class of drugs known as Thiazolidinediones ("TZDs"). Avandia was first approved for use in the United States by the Food

and Drug Administration ("FDA") in 1999 for the use in treatment of type 2 diabetes mellitus, also known as non-insulin-dependent diabetes mellitus.

16. Most people with diabetes have risk factors such as high blood pressure and cholesterol that provide a pre-existing susceptibility for heart disease and stroke. More than 65 percent of deaths in patients with diabetes are from cardiovascular causes. The effect of any antidiabetic therapy is particularly important because the reason for antidiabetic therapy is to reduce the complications of diabetes, the most serious of which is heart disease.

17. During the past decade, drugs have been introduced for the treatment of type 2 diabetes that, used in monotherapy or in combination therapy, are supposed to better control the disease in patients and reduce health complications associated with diabetes, such as heart attacks, strokes, and other cardiovascular complications.

18. Before and on or about the time when Avandia was prescribed and used by Milagros Larosa, the GSK Defendants knew, or should have known, that Avandia was associated with a significant increased risk of heart failure, myocardial ischemia and ischemic events such cardiovascular mortality, myocardial infarction, and stroke.

19. The risk of heart failure, also referred to as congestive heart failure, in patients taking Avandia led to labeling revisions as marketing experience and the results of further clinical trials were reviewed by the Food and Drug Administration.

20. On August 14, 2007, the warnings, precautions, and contraindications sections of the Avandia label were changed again regarding the potential increased risk of heart failure, and the following new black box warning was added to the label:

> WARNING: CONGESTIVE HEART FAILURE
>
> Thiazolidinediones, including rosiglitazone, cause or exacerbate congestive heart failure in some patients (see WARNINGS). After initiation of AVANDIA, and after dose increases, observe patient carefully for signs and symptoms of heart failure (including excessive, rapid weight gain, dyspnea, and/or edema). If these signs and symptoms develop, the heart failure should be managed according to current standards of care. Furthermore, discontinuation or dose reduction of AVANDIA must be considered.

> AVANDIA is not recommended in patients with symptomatic heart failure. Initiation of AVANDIA in patients with established NYHA Class III or IV heart failure is contraindicated. (See CONTRAINDICATIONS and WARNINGS.)

21. On November 19, 2007, the warnings, precautions, and indications sections of the Avandia label were changed again regarding the potential increased risk of myocardial ischemia, and the following language was added to the black box warning:

> WARNING: CONGESTIVE HEART FAILURE AND MYOCARDIAL ISCHEMIA
>
> A meta-analysis of 42 clinical studies (mean duration 6 months; 14,237 total patients), most of which compared AVANDIA to placebo, showed AVANDIA to be associated with an increased risk of myocardial ischemic events such as angina or myocardial infarction. Three other studies (mean duration 41 months; 14,067 patients), comparing AVANDIA to some other approved antidiabetic agents or placebo, have not confirmed or excluded this risk. In their entirety, the available data on the risk of myocardial ischemia are inconclusive.

22. Before the label changes on August 14, 2007 and November 19, 2007, Milagros Larosa ingested Avandia in San Diego County, California.

23. As a direct and proximate cause of ingesting Avandia, Milagros Larosa suffered from heart failure; strokes; and myocardial ischemia, including a myocardial ischemic event that resulted in hospitalization and required coronary revascularization on or about December 29, 2004, a myocardial ischemic event that resulted in hospitalization and additional coronary revascularization on or about July 26, 2005, and a myocardial ischemic event on January 17, 2005 after which Ms. Larosa required constant care and was placed in a nursing home where she suffered a stroke and died on December 20, 2005.

24. The injuries and death suffered by Ms. Larosa were legally caused by her ingestion of Avandia.

25. During the entire time Avandia has been on the market in the United States, FDA regulations have required the GSK Defendants to revise labeling "to include a warning about a clinically significant hazard as soon as there is reasonable evidence of a causal association with the

drug; a causal relationship need not have been definitely established." 21 C.F.R. 201.57(c)(6)(i). This regulation allowed the GSK Defendants to issue such a warning without prior FDA approval.

26. Before and at or about the time of Ms. Larosa's ingestion of Avandia, the GSK Defendants had the knowledge, the means, and the duty to provide the medical community and the consuming public with more accurate descriptive information and more adequate warnings regarding the association between Avandia and heart failure, and the association between Avandia and myocardial ischemia and ischemic events such cardiovascular mortality, myocardial infarction, and stroke, through all means necessary, including, but not limited to, labeling, continuing education, symposia, posters, sales calls to doctors, advertisements, and promotional materials.

27. At all times relevant, the GSK Defendants failed and refused to warn prescribing medical providers, and the consuming public, of the risks associated with Avandia that were known, or should have been known, as alleged herein.

28. At all times relevant, the GSK Defendants engaged in extensive mass media direct-to-consumer promotion, education, and advertising of Avandia for the purpose of increasing sales and stimulating consumer requests for Avandia prescriptions, independent of the advice of medical professionals.

29. At all times relevant, defendants, and each of them, and their aggregates, corporates, associates, and partners, and each of them, were the agent, servant, employee, assignee, permissive user, successor in interest, or joint venturer of each other, and were acting within the time, purpose, or scope of such agency or employment or permission; and all acts or omissions alleged herein of each such defendant were authorized, adopted, approved, or ratified by each of the other defendants.

FIRST CLAIM FOR RELIEF

(Negligence)

30. Plaintiffs incorporate by reference each and every prior and subsequent allegation of this complaint as if fully restated here.

31. At all times relevant, the GSK Defendants were under a duty to exercise reasonable care in the researching, manufacturing, selling, merchandising, advertising, promoting, labeling,

analyzing, testing, distributing and marketing of Avandia for distribution, sale, and use by the general public, to ensure that Avandia's use did not result in avoidable injuries.

32. Plaintiffs' injuries as described herein were caused by the negligence and misrepresentations of the GSK Defendants though its agents, servants and/or employees acting within the course and scope of their employment including among other things:

(a) Carelessly and negligently researching, manufacturing, selling, merchandising, advertising, promoting, labeling, analyzing, testing, distributing and marketing Avandia;

(b) Failing to fully disclose the results of the testing and other information in its possession regarding the association between Avandia and heart failure, and the association between Avandia and myocardial ischemia and ischemic events such cardiovascular mortality, myocardial infarction, and stroke.

(c) Negligently and carelessly failing to adequately warn the medical community and the general public, including Ms. Larosa and her treating and prescribing medical provider(s), of the dangers of using Avandia;

(d) Negligently and carelessly describing and promoting Avandia as safe and effective;

(e) Negligently and carelessly failing to act as a reasonably prudent drug manufacturer;

(f) Negligently and carelessly over-promoting and promoting Avandia in a zealous and unreasonable way, without regard to its potential dangers;

33. As a direct and proximate cause of the acts and conduct of the GSK Defendants, Milagros Larosa suffered severe injuries for a measurable period of time until she thereafter died as a result of said injuries.

34. As a direct and proximate result of the conduct of the GSK Defendants, Ms. Larosa's survivors, beneficiaries, and heirs have sustained the loss of her support, services, and other financial benefits as well as the loss of her love, society, companionship, comfort, affection, advice and moral support.

35. As a direct and proximate result of the conduct of the GSK Defendants, Ms. Larosa's survivors, beneficiaries, and heirs incurred the costs of decedent's funeral, burial, and related expenses.

36. As a direct and proximate result of the conduct of the GSK Defendants, Ms. Larosa became ill and was impaired in her health, strength, and activity, sustaining injury to her body and person.

37. As a direct and proximate result of the conduct of the GSK Defendants, Ms. Larosa was forced to incur expenses for medical care, x-rays, laboratory procedures, surgeries, hospitalization, nursing care and attention, all of which is at the present time unascertained; plaintiffs will show the reasonable and total value of such services at the time of trial.

38. As a direct and proximate result of the conduct of the GSK Defendants, Ms. Larosa was prevented from gainful employment. The exact amount of the reasonable value of working time lost is unknown at this time; plaintiffs will show the amount at the time of trial.

SECOND CLAIM FOR RELIEF

(Negligent Pharmaco-Vigilance)

39. Plaintiffs incorporate by reference each and every prior and subsequent allegation of this complaint as if fully restated here.

40. The GSK Defendants have an ongoing duty of pharmaco-vigilance. This duty requires, among other things, the GSK Defendants to continually monitor, test, and analyze data regarding the safety, efficacy, and prescribing practices of its marketed drugs, including Avandia.

41. The GSK Defendants continually receive reports from clinical trials, physicians, patients, and regulatory authorities of adverse events that occur in patients taking Avandia. Furthermore, the GSK Defendants continue to conduct clinical trials for its drugs after their drug is approved for use.

42. The GSK Defendants had the means and the resources to perform its pharmaco-vigilance duties for the entire time Avandia has been on the market in the United States.

43. The GSK Defendants have a duty to monitor epidemiological and pharmaco-vigilance data regarding their drugs and promptly report to the FDA, medical professionals, and the public, any safety concerns that arise through epidemiologic study or data.

44. The GSK Defendants breached this duty with respect to Milagros Larosa, her treating and prescribing medical providers, and plaintiffs. The GSK Defendants learned, or should have

learned, through various sources, including but not limited to, clinical trials and other adverse event reports, that there was a substantial risk of heart failure, myocardial ischemia and ischemic events such cardiovascular mortality, myocardial infarction, and stroke associated with the use of Avandia and failed to inform doctors, regulatory agencies, and ordinary consumers, including Milagros Larosa, of this risk.

THIRD CLAIM FOR RELIEF

(Strict Liability—Failure to Warn)

45. Plaintiffs incorporate by reference each and every prior and subsequent allegation of this complaint as if fully restated here.

46. The GSK Defendants' extensive direct-to-consumer promotion and advertising of Avandia created the duty to warn ordinary consumers, including Milagros Larosa, of the risks associated with Avandia alleged herein, in addition to the duty the GSK Defendants owed to medical professionals.

47. At all times relevant, ordinary consumers and prescribing medical providers would not have recognized the potential increased risk of heart failure, myocardial ischemia and ischemic events such as cardiovascular mortality, myocardial infarction, and stroke associated with ingestion of Avandia in the absence of adequate warnings thereof by the GSK Defendants.

48. At all times relevant, the GSK Defendants failed to adequately warn ordinary consumers and medical providers, including Milagros Larosa and her treating and prescribing medical providers, of the potential increased risk of heart failure, myocardial ischemia and ischemic events such cardiovascular mortality, myocardial infarction, and stroke associated with ingestion of Avandia.

FOURTH CLAIM FOR RELIEF

(Breach of Express Warranty)

49. Plaintiffs incorporate by reference each and every prior and subsequent allegation of this complaint as if fully restated here.

50. The GSK Defendants' extensive direct-to-consumer advertising of Avandia created the duty to notify ordinary consumers, includ ing Milagros Larosa, that Avandia was not as represented, in addition to the duty the GSK Defendants owed medical professionals.

51. At all times relevant, the GSK Defendants, by directly and indirectly advertising, marketing, and promoting Avandia for the treatment of type 2 diabetes and by placing this drug in the stream of commerce knowing that Avandia would be prescribed to patients with type 2 diabetes in reliance upon the representations of the GSK Defendants, expressly warranted to all foreseeable users of the drug, including Ms. Larosa, that Avandia was safe and effective for the treatment of patients with type 2 diabetes without a significantly increased risk of heart failure, myocardial ischemia and ischemic events such cardiovascular mortality, myocardial infarction, and stroke and without a significantly increased risk of heart failure.

52. Ms. Larosa and her treating and prescribing medical providers reasonably relied upon the aforesaid express warranties by the GSK Defendants.

53. The GSK Defendants breached the aforesaid express warranties because Avandia was not safe for the treatment of patients with type 2 diabetes.

FIFTH CLAIM FOR RELIEF

(Breach of Implied Warranty)

54. Plaintiffs incorporate by reference each and every prior and subsequent allegation of this complaint as if fully restated here.

55. The GSK Defendants' extensive direct-to-consumer advertising of Avandia created the duty to notify ordinary consumers, including Milagros Larosa, that Avandia was not was safe and effective for the purposes for which it had been placed in the stream of commerce, in addition to the duty the GSK Defendants owed medical professionals.

56. The GSK Defendants impliedly warranted to all foreseeable users, including Ms. Larosa and her prescribing medical provider(s), that Avandia was safe and effective for the purposes for which it had been placed in the stream of commerce by the GSK Defendants, and that Avandia was reasonably safe, proper, merchantable and fit for the intended purpose.

57. Ms. Larosa and her prescribing medical providers reasonably relied upon the aforesaid implied warranties by the GSK Defendants.

58. The GSK Defendants breached the aforesaid implied warranties in that Avandia was not safe for the treatment of patients with type 2 diabetes, among other things.

SIXTH CLAIM FOR RELIEF

(Fraud)

59. Plaintiffs incorporate by reference each and every prior and subsequent allegation of this complaint as if fully restated here.

60. In deciding whether to prescribe a drug, prescribing medical providers do a risk/benefit assessment in determining which drug to prescribe. Prescribing medical providers, such as Ms. Larosa's prescribing medical provider(s), relied, and continue to rely, on the information received about Avandia from various sources, such as journal articles, journal advertisements, company literature, the Physicians' Desk Reference, labels, package inserts, and discussions with the GSK Defendants' sales people. Such information must be accurate and provide an unbiased picture of a drug's safety and efficacy in treating a condition. If the information is false or misleading, prescribing medical providers, such as Ms. Larosa's prescribing medical provider(s), cannot accurately assess the crucial risk/benefit balance for the patient or exercise proper professional judgment that is independent. Consequently, the prescribing medical provider, including Ms. Larosa's treating and prescribing medical provider(s), could not, and cannot, act in accordance with the professional and fiduciary obligations owed to the patient, nor can patients, such as Milagros Larosa, give informed consent to the treatment.

61. In caring for themselves, and as part of diabetes management, type 2 diabetes patients had, and have, the option to refrain from using certain prescription drugs or to request alternative prescription drugs in order to minimize health risks. In deciding whether to refrain from using Avandia, or to request alternative medications, ordinary consumers relied, and continue to rely, on information received about Avandia from various sources, such as direct-to-consumer and other advertisements, company literature, and package inserts. Such information must be accurate and provide an unbiased picture of a drug's safety and efficacy in treating a condition. If the information is false or misleading, ordinary consumers, such as Ms. Larosa, could not, and cannot, accurately assess their options to refrain from using Avandia or to request alternative medications.

62. Concealing adverse information and providing inaccurate or biased information that is material to a decision misleads the prescribing medical providers and misleads the patient, as was

the case with Ms. Larosa and her treating and prescribing medical provider(s). This misleading information, along with omissions of material facts related to Avandia's safety, cause health care providers, ordinary consumers, and the general public to be misled about Avandia's risks and benefits and deprive prescribing medical providers from making a proper risk/benefit assessment as to the use of Avandia and deprive ordinary consumers from properly weighing their mediation options.

63. The GSK Defendants' advertising program, by affirmative misrepresentations and omissions, falsely and deceptively sought to create the image and impression that the use of Avandia was safe for human use; had no unacceptable side effects; had fewer side effects than other antidiabetic agents; and would not interfere with daily life.

64. The GSK Defendants purposefully concealed, failed to disclose, misstated, downplayed and understated the health hazards and risks associated with the use of Avandia. The GSK Defendants, through promotional literature, deceived potential users and prescribers of said drug by relying on only allegedly positive information, including testimonials from allegedly satisfied users and celebrity spokespersons, and manipulating statistics to suggest widespread acceptability, while concealing, misstating and downplaying the known adverse and serious health effects. The GSK Defendants falsely and deceptively kept relevant information from potential Avandia users and minimized prescriber concerns regarding the safety and efficacy of Avandia and over-promoted the drug.

65. In particular, the GSK Defendant engaged in the following actions, although not limited to the following actions, that constitute false and deceptive misrepresentations or omissions regarding Avandia:

(a) The GSK Defendants marketed have and continue to market Avandia to ordinary consumers and medical professionals as a safer and more effective antidiabetic agent than other antidiabetic agents on the market;

(b) The GSK Defendants attempted to silence Dr. John B. Busé, a diabetes expert and head of endocrinology at the University of North Carolina, Chapel Hill, by threatening him with a $4 million lawsuit and by characterizing him as a liar after he raised concerns about Avandia and heart problems in 1999;

(c) The GSK Defendants failed to warn consumers and the medical community about the increased risk of heart problems associated with Avandia, and continue to do so, despite having knowledge of these health risks;

(d) The GSK Defendants promoted Avandia in violation of the Federal, Food, Drug, and Cosmetic Act, which was the subject of a July 17, 2001 FDA Warning Letter;

(e) The GSK Defendants' sales representatives engaged in false or misleading promotional activities with respect to the risk information in Avandia's label;

66. When said representations and/or omissions were made by the GSK Defendants, it knew those representations and/or omissions to be false or misleading, or willfully, wantonly, recklessly, and consciously disregarded whether the representations and/or omissions were true. These representations and/or omissions were made by the GSK Defendants with the intent of defrauding and deceiving the public in general and the medical community and with the intent of inducing the public to request and ingest Avandia and the medical community to recommend, prescribe, and dispense Avandia.

67. The aforementioned misrepresentations by the GSK Defendants were reasonably relied upon by Ms. Larosa and her prescribing medical provider(s) to their detriment.

SEVENTH CLAIM FOR RELIEF

(Survival Action)

68. Plaintiffs incorporate by reference each and every prior and subsequent allegation of this complaint as if fully restated here.

69. Plaintiffs are informed and believe and thereon allege that the conduct of the GSK Defendants, and each of them, entitles plaintiffs to an award of punitive damages pursuant to Civil Code section 3294, in that the GSK Defendants acted with oppression, fraud, or malice, in conscious disregard of the rights and safety of others, including Milagros Larosa. The GSK Defendants authorized or ratified the wrongful conduct for which punitive damages are requested or was personally guilty of oppression, fraud, or malice. With respect to the corporate defendants, the conscious disregard, authorization, ratification or act of oppression, fraud, or malice was on the part of an officer, director, or managing agent of the corporation.

PRAYER

WHEREFORE, Plaintiffs pray for judgment against defendants as follows:

1. For general damages according to proof;
2. For special damages according to proof;
3 For costs of the decedent's funeral, burial, and related expenses according to proof;
4. For punitive and exemplary damages according to proof;
5. For pre-judgment and post-judgment interest as allowed by law;
6. For costs of suit incurred herein; and
7. For such other and further relief as this court may deem just and proper.

Dated: December 17, 2007

BAUM, HEDLUND, ARISTEI & GOLDMAN, P.C.

By: ____________________
Michael L. Baum
Ronald L.M. Goldman
Roger D. Drake

Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial.

Dated: December 17, 2007

BAUM, HEDLUND, ARISTEI & GOLDMAN, P.C.

By: ______________________

Michael L. Baum
Ronald L.M. Goldman
Roger D. Drake

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

# 145611 - BH

December 17, 2007
16:02:55

Civ Fil Non-Pris
USAO #.: 07CV2356 CIVIL FILING
Judge..: WILLIAM Q HAYES
Amount.: $350.00 CK
Check#.: BC# 52414

Total-> $350.00

FROM: CIVIL FILING
LAROSA V. SMITHKLINE BEECHAM

ORIGINAL

JS 44
(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
Rogelio Larosa, Individually and as Successor in Interest of the Estate of Milagros Larosa, Decesased, and Eric Larosa, Individually

DEFENDANTS
SmithKline Beecham Corporation, d/b/a GlaxoSmithKline, a Pennsylvania corporation; GlaxoSmithKline plc, an English public limited company; Glaxo Wellcome UK Ltd., Uxbridge, Middlesex, UK; and GlaxoSmithKline UK Limited Brentford, Middlesex, UK

FILED
2007 DEC 17 PM 4:00
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Philadelphia
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Baum, Hedlund, Aristei & Goldman, P.C.
12100 Wilshire Boulevard,
Suite 950
Los Angeles, California 90025
310-207-3233

ATTORNEYS (IF KNOWN)

'07 CV 2356 WQH JMA

II. BASIS OF JURISDICTION (PLACE AN 'X' IN ONE BOX ONLY)

- [ ] 1 U.S. Government Plaintiff
- [ ] 3 Federal Question (U.S. Government Not a Party)
- [ ] 2 U.S. Government Defendant
- [X] 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN 'X' IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(For Diversity Cases Only)

	PT	DEF		PT	DEF
Citizen of This State	[X] 1	[ ] 1	Incorporated *or* Principal Place of Business in This State	[ ] 4	[ ] 4
Citizen of Another State	[ ] 2	[ ] 2	Incorporated *and* Principal Place of Business in Another State	[ ] 5	[X] 5
Citizen or Subject of a Foreign Country	[ ] 3	[ ] 3	Foreign Nation	[ ] 6	[ ] 6

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)
28 USC 1332

V. NATURE OF SUIT *(PLACE AN "X" IN ONE BOX ONLY)*

CONTRACT
- [ ] 110 Insurance
- [ ] 120 Marine
- [ ] 130 Miller Act
- [ ] 140 Negotiable Instrument
- [ ] 150 Recovery of Overpayment & Enforcement of Judgment
- [ ] 151 Medicare Act
- [ ] 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- [ ] 153 Recovery of Overpayment of Veteran's Benefits
- [ ] 160 Stockholders' Suits
- [ ] 190 Other Contract
- [ ] 195 Contract Product Liability

TORTS

PERSONAL INJURY
- [ ] 310 Airplane
- [ ] 315 Airplane Product Liability
- [ ] 320 Assault, Libel & Slander
- [ ] 330 Federal Employers' Liability
- [ ] 340 Marine
- [ ] 345 Marine Product Liability
- [ ] 350 Motor Vehicle
- [ ] 355 Motor Vehicle Product Liability
- [ ] 360 Other Personal Injury

PERSONAL INJURY
- [ ] 362 Personal Injury - Medical Malpractice
- [X] 365 Personal Injury - Product Liability
- [ ] 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- [ ] 370 Other Fraud
- [ ] 371 Truth in Lending
- [ ] 380 Other Personal Property Damage
- [ ] 385 Property Damage Product Liability

FORFEITURE/PENALTY
- [ ] 610 Agriculture
- [ ] 620 Other Food & Drug
- [ ] 625 Drug Related Seizure of Property 21 USC 881
- [ ] 630 Liquor Laws
- [ ] 640 R.R. & Truck
- [ ] 650 Airline Regs.
- [ ] 660 Occupational Safety/Health
- [ ] 690 Other

LABOR
- [ ] 710 Fair Labor Standards Act
- [ ] 720 Labor/Mgmt. Relations
- [ ] 730 Labor/Mgmt. Reporting & Disclosure Act
- [ ] 740 Railway Labor Act
- [ ] 790 Other Labor Litigation
- [ ] 791 Empl. Ret. Inc. Security Act

BANKRUPTCY
- [ ] 422 Appeal 28 USC 158
- [ ] 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- [ ] 820 Copyrights
- [ ] 830 Patent
- [ ] 840 Trademark

SOCIAL SECURITY
- [ ] 861 HIA (13958)
- [ ] 862 Black Lung (923)
- [ ] 863 DIWC/DIWW (405(g))
- [ ] 864 SSID Title XVI
- [ ] 865 RSI (405(g))

FEDERAL TAX SUITS
- [ ] 870 Taxes (U.S. Plaintiff or Defendant)
- [ ] 871 IRS - Third Party 26 USC 7609

OTHER STATUTES
- [ ] 400 State Reappointment
- [ ] 410 Antitrust
- [ ] 430 Banks and Banking
- [ ] 450 Commerce/ICC Rates/etc.
- [ ] 460 Deportation
- [ ] 470 Racketeer Influenced and Corrupt Organizations
- [ ] 810 Selective Service
- [ ] 850 Securities/Commodities/ Exchange
- [ ] 875 Customer Challenge 12 USC 3410
- [ ] 891 Agricultural Acts
- [ ] 892 Economic Stabilization Act
- [ ] 893 Environmental Matters
- [ ] 894 Energy Allocation Act
- [ ] 895 Freedom of Information Act
- [ ] 900 Appeal of Fee Determination Under Equal Access to Justice
- [ ] 950 Constitutionality of State Statutes
- [ ] 890 Other Statutory Actions

REAL PROPERTY
- [ ] 210 Land Condemnation
- [ ] 220 Foreclosure
- [ ] 230 Rent Lease & Ejectment
- [ ] 240 Torts to Land
- [ ] 245 Tort Product Liability
- [ ] 290 All Other Real Property

CIVIL RIGHTS
- [ ] 441 Voting
- [ ] 442 Employment
- [ ] 443 Housing/ Accommodations
- [ ] 444 Welfare
- [ ] 440 Other Civil Rights

PRISONER PETITIONS
- [ ] 510 Motion to Vacate Sentence

HABEAS CORPUS:
- [ ] 530 General
- [ ] 535 Death Penalty
- [ ] 540 Mandamus & Other
- [ ] 550 Civil Rights
- [ ] 555 Prison Conditions

VI. ORIGIN *(PLACE AN "X" IN ONE BOX ONLY)*
- [X] 1 Original Proceeding
- [ ] 2 Removal from State Court
- [ ] 3 Remanded from Appellate Court
- [ ] 4 Reinstated or Reopened
- [ ] 5 Transferred from another district (specify)
- [ ] 6 Multidistrict Litigation
- [ ] 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: [ ] CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23 **DEMAND $**
CHECK YES only if demanded in complaint:
JURY DEMAND: [X] YES [ ] NO

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE ________ Docket Number ________

DATE
December 17, 2007

SIGNATURE OF ATTORNEY OF RECORD

PAID $350 12/17/07 BH RCPT# 145611

::ODMA\PCDOCS\WORDPERFECT\22816\1 January 24, 2000 (3:10pm)